

LICENSING SUB-COMMITTEE

Monday 30 January 2023

Present:

Councillors Newby, Snow and Wright

Also Present:

Legal Advisor, Apprentice Solicitor and Democratic Services Officer (HB)

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APPOINTMENT OF CHAIR

Councillor Snow was appointed as Chair for this meeting.

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DECLARATIONS OF INTEREST

No declarations of interest were made by Members.

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APPLICATION TO VARY THE PREMISES LICENCE

The Chair introduced the Members of the Sub-Committee together with the Legal Advisor, the Apprentice Solicitor, the Principal Licensing Officer and the Democratic Services Officer. The Legal Advisor set out the hearing procedure and all parties in attendance, agreed that the procedure was understood. He referred to additional documentation provided by both the applicant and the solicitor for one of the respondents. All parties had agreed for the additional documentation to be included at the hearing.

The Licensing Officer presented the application which sought a variation of an existing premises licence in respect of Sandy Park Stadium, Exeter, which sought to:-

- remove unenforceable and unclear conditions on the existing licence and to replace them with enforceable and clear conditions as set out in the Operating Schedule of the Application; and
- to add the following licensable activities: Plays, Boxing and Wrestling, Films, Live Music and Recorded Music. All outdoors Monday to Sunday 10:00 - 23:00.

The application included additional plans to clarify the area within which licensable activities could take place and the boundary and the Applicant had included additional conditions in the Operating Schedule of the application to promote the Licensing Objectives. The application had been advertised on the premises from 14 December 2022 for 28 days and in the local newspaper on 22 December 2022 as required by legislation.

There have been 14 representations received from local residents and one from Environmental Health objecting to the application to vary the existing premises licence, which related the following Licensing Objectives:-

- the Prevention of Public Nuisance;
- the Prevention of Crime and Disorder;
- Public Safety; and
- the Protection of Children from Harm.

Two representations had been withdrawn, one accepting that events would not go beyond 23:00 hours and the other being content with the Noise Management Plan.

There were no other representations from any other responsible authority that had been received.

The Applicant was in attendance and spoke in support of their application and responded to questions from Members, the Legal Advisor and the respondents. Four respondents, including Councillor Holland, who had made representations, were also in attendance to speak on the matter and responded to questions from Members and the Legal Advisor.

All parties were advised that a decision notice would be issued within five working days of the hearing. The Legal Advisor stated that the parties had a right of appeal against the decision notice to the Magistrates Court within 21 days of being notified of the decision.

The meeting was closed so that the Members could determine the application.

RESOLVED that the application to vary the licence was agreed for the reasons set out in the formal decision notice attached.

(The meeting commenced at 10.00 am and closed at 1.25 pm)

Chair



Exeter City Council

LICENSING ACT 2003

NOTICE OF DETERMINATION

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|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Date of Hearing: | 30 th January 2023 |
| Application: | Variation of a Premises Licence |
| Name of Premises: | Sandy Park Stadium |
| Address: | Sandy Park Stadium, Sandy Park Way, Exeter , EX2 7NN |
| Licensing Sub-Committee: | Cllr M Snow (Chair) Cllr R Newby Cllr L Wright |
| Committee Legal Advisor: | Matthew Hall Max Murphy |
| Principal Licensing Officer: | Vicky Limb |
| Democratic Services Officer: | Howard Bassett |
| The Applicant: | Exeter Rugby Club Ltd represented by Tony Rowe (Chairman) Natasha Pavis (Managing Director) Mark Isaacs (Stadium Operations Director) |
| Representations: | In attendance: Lisa Cocks - Responsible Authority Environmental Health Peter Holland - Ward Councillor Local Residents - Rupert Pratt (represented by Jon Dunkley of Wollen Michelmores LLP), Robert Pascoe and Robert Pond. |
| Hearing Duration: | 10:20hrs to 14:53hrs |

TAKE NOTICE:

That the Licensing Sub-Committee convened on 30th January 2023 to determine the application for a variation to the premises licence has resolved to grant the variation subject to conditions in accordance with section 35 of the Licensing Act 2003 as set out in this notice.

THE SUB-COMMITTEE'S DECISION:

In determining this application, the Licensing Sub-Committee took into account all the relevant evidence and information presented to it both written and oral, and took account of all the matters it is bound to take account of, in particular the following:

- Licensing Act 2003

- Statutory Guidance
- Exeter City Council Statement of Licensing Policy
- Human Rights Act 1998
- Any equality and diversity considerations

The Licensing Sub-Committee determined to modify the conditions on the Licence as follows:

Modification to the Conditions

The conditions of the current licence shall be modified by inserting the following;

The Conditions set out in the Operating Schedule.

All staff engaged in licensable activities at the premises will receive training and information in relation to the following:

- The Challenge 25 scheme in operation at the premises, including the forms of identification that are acceptable;
- The hours and activities permitted by the premises licence issued under the Licensing Act 2003 and conditions attached to the licence;
- How to complete and maintain the refusal register in operation at the premises in relation to the sale of alcohol;
- Recognising the signs of drunkenness;
- The operating procedures for refusing service to any person who is drunk, under-age or appears to be under-age, or appears to be making a proxy purchase;
- Action to be taken in the event of an emergency, including reporting an incident to the emergency services.

Training shall be recorded in documentary form and shall be regularly refreshed at not less than 12 month intervals.

Training records shall be made available for inspection and copying at reasonable times upon request of an authorised officer of a responsible authority.

Training records will be retained for at least 12 months.

An incident log shall be kept and maintained at the premises which will include a log of the following, including pertinent details of:

- Any incidents of disorder or of a violent or anti-social nature;
- All crimes reported to the venue or by the venue to the police;
- All ejections of patrons;
- Any complaints received;
- Seizures of drugs or offensive weapons;
- Any faults or failures in the CCTV system;
- Any visits by a responsible authority (under the Licensing Act 2003) or emergency service.

Records must be completed within 24 hours of any incident and will contain the time and date, the nature of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident.

The logs shall be kept for at least 12 months following the date of entry and be made available for inspection and copying upon request of an authorised officer of a responsible authority.

Customers shall not be permitted to remove from the premises any drinks supplied by the premises (alcoholic or otherwise) in open containers.

The following details for each door supervisor will be contemporaneously entered into a register kept for that purpose:

- Full name;
- SIA licence/badge number, and registration number of any accreditation scheme recognised by the Licensing Authority (including expiry date of that registration or accreditation);
- The date and time they began their duty;
- The date and time they completed their duty;
- The full details of any agency through which they have been allocated to work at the premises if appropriate.

The register shall be available for inspection and copying at all reasonable times by an authorised officer of a responsible authority.

The register shall be kept at the premises at all times and be so maintained as to enable an authorised officer to establish the particulars of all door supervisors engaged at the premises during the period of not less than 12 months prior to the request.

SIA licensed door supervisors will be responsible for ensuring the safe, quiet and orderly dispersal of customers from the premises and the immediate vicinity of the premises. The premises shall install, operate and maintain a digital colour CCTV system to the satisfaction of the Police and Local Authority. As a minimum, the system must:

- Cover all public areas of the licensed premises, including entry and exit points. This also includes any outside areas under the control of the premises licence holder (The location of cameras can also be specified on the plan attached to the premises licence);
- Record clear images permitting the identification of individuals and in particular enable facial recognition images (a clear head and shoulder image) of every person entering and leaving in any light condition;
- Continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises;
- Have a constant and accurate time and date generation;
- Store recordings for a minimum period of 30 days with date and time stamping;
- Viewable copies of recordings will be provided on request to the police and local authority officers as soon as is reasonably practicable and in accordance with the Data Protection Act 1998 (or any replacement legislation);
- The CCTV system will be capable of downloading images to a recognisable viewable format;
- The CCTV system will capture a minimum of 4 frames per second;
- The CCTV system will be fitted with security functions to ensure the integrity of the system and to prevent the tampering with and deletion of images (i.e. password protected).

The CCTV system will be fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document [https://ico.org.uk/for- organisations/guide-](https://ico.org.uk/for-organisations/guide-)

to-data-protection/CCTV/ (or any renewed equivalent guidance which is subsequently issued).

For all outside events all drinks shall be served in plastic/paper/toughened glass or polycarbonate containers.

There will be in place a written age verification policy in relation to the sale or supply of alcohol, which will specify a Challenge 25 proof of age requirement. This means that staff working at the premises must ask individuals who appear to be under 25 years of age, attempting to purchase alcohol, to produce identification. The only acceptable identification documents will be:

- A photo driving licence;
- A passport;
- An identification card carrying the PASS hologram.

Unless such identification is produced the sale of alcohol must be refused. This policy will include documented steps taken to prevent adults from purchasing alcohol for or on behalf of children under 18.

The premises shall display prominent signage indicating in all areas where alcohol is located that a Challenge 25 scheme is in operation.

An alcohol sales refusal register shall be kept at the premises and be maintained to include details of all alcohol sales refused. The register will include:

- the date and time of refusal;
- the reason for refusal;
- details of the person refusing the sale;
- description of the customer;
- any other relevant observations.

The refusals register will be made available for inspection and copying on the request of an authorised officer of a responsible authority.

All entries must be made within 24 hours of the refusal.

Conditions added by the Licensing Sub-Committee:

- Existing Condition (remaining on the Licence)
 - Unless there is an Event taking place the outside bars shall only open on match days from 4 hours before kick-off until 2 hours after the final whistle.
- Conditions agreed by the Applicant with the Police;
 - A written drugs policy shall be in place, operated and complied with at the premises. It must detail the actions taken to minimise the opportunity to use or supply illegal substances within the premises. The policy must be made available for inspection and copying upon request by an authorised officer of a responsible authority.
 - A written dispersal policy shall be in place, implemented and complied with at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours.

- A written door supervisor risk assessment approved by the Responsible Authority (Devon and Cornwall Police) shall be in place, implemented and complied with at the premises. The assessment shall identify the number and location of SIA licensed door supervisors required to promote the Licensing Objectives. The assessment shall be subject to a full review every six months and be made available on request to Responsible Authorities.
- Limits on Events

Events

'Event' means any outdoor event at the premises consisting of the licensable activities, Plays, Boxing, Wrestling, Films, Live Music and Recorded Music. For the avoidance of doubt this does not include recorded music played that is incidental to Rugby matches.

Events shall be limited to;

- The area of the premises inside of the stadium;
- Saturdays and Sundays;
- 2 Events per month (each Event lasting no longer than two days);
- No more than 2 consecutive weekends (to avoid 3 weekends in a row);
- The months May, June, July and August;
- A total of 15,500 people on the premises inclusive of the public, staff, crew and artists.

Condition to set Hours of events.

Events shall be permitted only on

- Saturdays from 1000hrs to 2230hrs;
- Sundays from 1000hrs to 2130hrs.

Event Management Plan

Any Events consisting of Licensable Activities shall be subject to an Event Management Plan ('EMP') including but not limited to the following:

- A Noise Management Plan
 - Setting maximum decibel levels;
 - The procedure for monitoring noise levels during the Event including liaison with the sound engineer for the Event;
 - Testing prior to the Event;
 - Record keeping;
 - Dealing with noise complaints;
 - Notification of residents.
- A Transport Management Plan
 - Dispersal Policy to avoid negative impact on local residents of patrons arriving and leaving the premises;
 - The provision of transport to and from the premises.

At least 3 months prior to any Events taking place the licence holder must provide notification of the Event to the Licensing Authority (Exeter City Council), Environmental Health (Exeter City Council) and Devon and Cornwall Police. The notification must include the name of the Event, the duration of the Event (start, end date and time) and the number of people

expected and must be in writing (email notification is acceptable) and must also include a copy of the proposed EMP for the Event.

Prior to any Event the final EMP must be approved by the Safety Advisory Group and the Responsible Authorities under the Licensing Act 2003 (including Environmental Health and Licensing Authority at Exeter City Council).

The final approved EMP must be kept on the premises during the course of the Event.

Prior to any event the Licence Holder shall appoint a suitably qualified and experienced noise control consultant to liaise with all the Responsible Authorities under the Licensing Act 2003 (including Environmental Health and Licensing Authority at Exeter City Council) during the development of the EMP and with the licence holder, the promoter, the sound system supplier and the sound engineer on all matters relating to noise control prior and during the Event.

At least two months prior to an Event written notice shall be provided to local residents within at least a 1 mile radius of the premises, the residents association, placed on social media and the Licence Holders website which will include the date time and nature of the Event and details of a dedicated noise complaint line which will be manned and responded to throughout the Event.

All transport organised by the Licence Holder for the dispersal of patrons after the Event shall leave from the premises.

The following conditions are removed from the Licence

CCTV shall be installed, operated and maintained to the satisfaction of the Chief Officer of Police.

CCTV footage shall be retained for a minimum of fourteen days.

The monitoring of noise emanating from the premises will be undertaken by management and action taken to reduce that noise if required.

Windows shall not be opened in entertainment areas.

Doors shall be closed except for access and egress when regulated entertainment takes place.

A proof of age policy shall be implemented.

Events that may cause concern with respect to children shall be evaluated on an event by event basis and action taken accordingly to protect children.

REASONS FOR DECISION

Having carefully considered all the written and oral Representations, the Licensing Sub-Committee resolved to grant the application subject to conditions as it was satisfied that a limited number of closely managed events could take place at the premises without having a negative impact on the Licensing Objectives.

The Licensing Sub-Committee noted the concerns of the residents in particular regarding the disruption at night in respect of the dispersal of patrons after 11pm and the change in demographic of patrons attending Rugby matches to those attending live music events. They

also noted the representations from the Environmental Health Authority regarding the cumulative impact of events being held every week over a short period of time.

The Licensing Sub-Committee also had concerns that at the time of submission the Applicant had not fully thought through its application. This was because further details had been submitted in a piecemeal manner prior to the hearing, with some information and clarifications being presented at the hearing. The Licensing Sub-Committee considered that the additional information submitted had the effect of reducing the overall scope of the capacity, days and times of the licensable activities applied for and advertised. Therefore it did not prejudice the respondents or potential respondents. The specific details relating to an event management plan to address noise management and dispersal of patrons would be dealt with by way of condition. Therefore the Licensing Sub-Committee considered it had sufficient information to make its determination.

The Licensing Sub-Committee considered that as a reputable and professional operator the Applicant would work with the Responsible Authorities and the Safety Advisory Group. In order to promote the Licensing Objectives it was determined that such events would be subject to conditions and limited in order to minimise the risk of a negative impact on the Licensing Objective, the Prevention of Public nuisance. This would strike a fair balance between the concerns raised in the representations and the overall benefits to the community of having a large scale venue for live events.

It was noted that should the events have a negative impact on the Licensing Objectives any party can bring a review of the premise licence and if there is no negative impact the Applicant could make an application to increase activities in the future.

In conclusion the Licensing Sub-Committee granted the application subject to the conditions as set out above in this notice.

RIGHT OF APPEAL:

All parties are reminded of their right to appeal against this decision to the Magistrates' Court by virtue of Section 181 and Schedule 5 Part 1 of the Licensing Act 2003. Any appeal must be made within the period of 21 days beginning with the date on which you are notified of the decision.

Any Appeal is commenced by a notice addressed to:

The Clerk to the Justices, North and East Devon Magistrates' Court Office, Southernhay Gardens, Exeter, EX1 1UH Telephone 01392 415300.

Parties are advised to contact the court office to check the form of notice required and the fee payable.

The Chair of Licensing Sub Committee



Councillor Martin Snow

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02 February 2023

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